

MINTZ LEVIN
COHN FERRIS
GLOVSKY AND
POPEO PC

Washington
Boston
New York
Reston
New Haven

DOCKET FILE COPY ORIGINAL

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202 434 7300
202 434 7400 fax
www.mintz.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Michael H. Pryor

Direct dial 202 434 7365
mhpryor@mintz.com

March 6, 2002

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Application by Verizon-New Jersey Inc. for Authorization to Provide In-Region
InterLATA Services in New Jersey, Docket No. 01-347.

Dear Mr. Caton:

ATX Licensing, Inc., by its counsel, pursuant to 47 C.F.R. § 1.51 and 1.419 of the rules of the Federal Communications Commission, hereby submits an original and four copies of the attached letter for filing in the above-captioned docket. If there are any questions regarding this filing, please feel free to contact either Michael H. Pryor or Lisa N. Anderson at (202) 434-7300.

Respectfully Submitted,

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.



Michael H. Pryor
Lisa N. Anderson

Enclosure

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Bruce Bennett
Vice President - External Affairs

ATX, Licensing, Inc.
a CoreComm Company
10 South Riverside Plaza
20th Floor
Chicago, IL 60606

Tel.: (312) 445-1161
Fax: (312) 445-1232
Email: Bruce.Bennett@corecomm.com

March 5, 2002

Dorothy Attwood
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Application by Verizon-New Jersey Inc. for Authorization to Provide In-Region
InterLATA Services in New Jersey, Docket No. 01-347.*

Dear Ms. Attwood:

ATX Licensing, Inc. ("ATX") submits this letter to update the Commission on its continuing billing issues with Verizon and to respond to Verizon's recent *ex parte* filing concerning access to certain UNE-P products. Both before the New Jersey Board of Public Utilities and this Commission, ATX has raised concerns regarding Verizon's OSS performance with respect to billing, and provisioning of UNE-P. In response, Verizon has attempted to assure this Commission that these billing problems are negligible or resolved. Moreover, in a recently filed *ex parte*,¹ Verizon has asserted that it has addressed ATX's concerns on UNE-P provisioning. ATX respectfully files this letter to apprise the Commission that, despite its claims, Verizon continues to provide substandard billing and UNE-P.

Billing

ATX's comments in this proceeding note that Verizon fails to provide ATX with accurate, auditable wholesale bills. Verizon's bills consistently contain mistakes and errors. Despite Verizon's repeated promises to correct these mistakes, they occur again and again. As a result, ATX cannot rely on Verizon's bills and must devote considerable resources to audit and reconcile Verizon's statements. Unfortunately, these problems are getting worse, not better.

ATX purchases wholesale services from Verizon in a number of Verizon states, including New Jersey and Pennsylvania. Verizon's billing systems generally are the same throughout its

¹ *Application by Verizon-New Jersey Inc. for Authorization to Provide In-Region InterLATA Services in New Jersey, Docket No. 01-347, Letter from Clint E. Odom to William Caton, Acting Secretary, Federal Communications Commission (Feb. 25, 2002).*

region. In this proceeding, Verizon has sought to demonstrate that its billing systems comply with the Commission's requirements by claiming that New Jersey's billing systems are the same as those that the Commission found sufficient in Pennsylvania. In its Pennsylvania Order, the Commission found that "[d]espite the historical problems that competitors have experienced with Verizon's billing system, we find that Verizon has satisfied the wholesale billing component of checklist item 2" and "[t]o the extent that other competitive LECs report errors, these errors do not appear to reflect systemic wholesale billing problems that are likely to recur."²

The Commission's optimistic assessment unfortunately has proven incorrect. Not only have ATX's billing problems in Pennsylvania (and New Jersey) not been resolved, they have gotten noticeably worse, to the point where ATX has had to file a formal complaint before the Pennsylvania Public Utility Commission ("PA PUC").³ A copy of the complaint and pertinent attachments are included with this letter. Verizon has also become considerably more aggressive in its bill collection tactics, often using threats to embargo service if past due amounts are not fully paid within specified time periods, even though those amounts are the subject of legitimate disputes. By continuing to give Verizon's billing systems passing grades based largely on testing results when in fact they are flunking in the real world will only embolden Verizon to undertake ever more aggressive tactics.

ATX is one of the few carriers that have been in Verizon's region providing competing service for a sustained period of time. It thus offers this Commission real world experience over a sustained period of time with Verizon's billing systems. For almost five years now – from the time that ATX received its first wholesale bill as a local service provider to the present – Verizon has consistently and repeatedly failed to provide ATX with complete, readable and auditable wholesale bills. From ATX's real world experience, as detailed in its comments in this proceeding and as further explained below, Verizon's billing systems hamper ATX's ability to compete. Each month, year after year, ATX has been inundated with literally hundreds of thousands of pages of billing records replete with errors, including:

- stand-alone bills;
- unidentifiable billing credits;
- irreconcilable charges;
- inappropriate universal service charges;
- inappropriate taxes on resold services;
- inappropriate installation charges;

² *Application of Verizon Pennsylvania Inc, Verizon Long Distance, Verizon enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order (rel. Sept. 19, 2001) ("Pennsylvania 271 Order") ¶¶ 24, 28

³ *Complaint of ATX A CoreComm Company With Regard to Billing Issues with Verizon-PA*, Docket No. C-20026867, Amended Complaint (filed Mar. 1, 2002) (Attachment 1). In addition, the Amended Complaint references ATX's Emergency Petition. *Complaint of ATX A CoreComm Company With Regard to Billing Issues with Verizon-PA*, Docket No. C-20026867, Petition for an Emergency Order (filed Feb. 12, 2002). The Emergency Petition and its appendices are appended as Attachment 2 with Appendices A-E.

- inappropriate PICC charges for lines that are not ATX customers;
- incorrect loop charges;
- improper imposition of a retail rate instead of a wholesale rate;
- charges for resold services (*e.g.* yellow pages, voice-mail, inside wire maintenance) to hundreds of customers, despite the fact that Verizon does not even permit ATX to resell these services;
- charges for services not ordered or for features not provided; and
- charges for lines that have long been disconnected.

As a result of these types of repeated errors, a course of dealing had developed between ATX and Verizon. Because of the massive size of the bills, and the number of errors usually found, ATX would need 60 to 90 days to audit the bills, then it would pay undisputed amounts (ATX makes considerable payments to Verizon each month averaging about \$5.4 million) and withhold amounts billed in error, pursuant to the dispute resolution process outlined in ATX's interconnection agreement with Verizon. Through this process, ATX estimates it has received more than \$12 million in credits for erroneous bills between 1996 and 2001 with another approximately \$6 million currently outstanding and unresolved.

Utilizing this process, however, is not a substitute for correcting Verizon's billing systems to curtail these mistakes. The process is enormously time consuming and resource intensive. Moreover, the length of time to obtain the credits has steadily increased, from an average of 90 days in 1999 to 230 days in 2001. Additionally, the credits were often provided in a way that made it extremely difficult for ATX to determine which billing error the credit was meant to correct, requiring another time consuming round of auditing and reconciliation.

Recently, however, Verizon has become much more aggressive. It has stopped providing ATX the 60 to 90 day-period required to audit bills (Verizon itself claims it needs that much time to review ATX's disputes). Instead, Verizon has now insisted on payment within 30 days and threatens to embargo service if payment is not timely made. At the end of January, for example, Verizon threatened to stop providing any new services to ATX, including changing service requests from existing customers, if ATX did not pay some \$4 million Verizon claimed was undisputed and owing, even though ATX was still attempting to audit and reconcile the bills. As a result, ATX was forced to take emergency action before the PA PUC and to file the attached formal complaint.

ATX has repeatedly raised these billing problems with Verizon and Verizon has repeatedly promised to fix them, yet they continue to recur. For example, in December of 2001, ATX reviewed various invoices from Verizon and found almost 1,000 examples of billing errors that Verizon had asserted either had been or would be fixed. These errors included the same types of errors identified by ATX in the past.

ATX recognizes that the section 271 approval process is not the forum to resolve billing disputes and ATX is not pointing out these disputes for such a purpose. Rather, the billing disputes are the competition affecting result of Verizon's inadequate wholesale bills. Verizon's long-standing billing problems, coupled with Verizon's false promises that they have been or would be resolved, have thoroughly undermined any confidence that ATX has in Verizon's bills. As a result, ATX has been forced to incur substantial costs and divert resources from growing its business in order to engage in a burdensome, time-consuming and unnecessary audit process each month in order to satisfy itself that the payments to Verizon are even remotely related to the services that ATX has actually purchased.

Verizon's actions have other competitive ramifications. ATX has obtained evidence that Verizon has started to call ATX's customers informing them that ATX owes Verizon money and Verizon would soon terminate ATX's service and asking if the customer wanted to switch back to Verizon.⁴ The particular customer that is the subject of the attachments was an account that Verizon had incorrectly billed and for which ATX had withheld payment, upon the advice of Verizon.

Verizon's billing practices if unchecked, will continue to haunt competitive providers long after Verizon gains 271 approval. These billing errors and disputes will effectively lead to the elimination of competitive options in the local market. Thus, ATX urges the Commission to require Verizon to address its billing problems prior to obtaining 271 authority in additional states.

UNE-P

In its February 25, 2002 *ex parte* letter, Verizon claims that it has addressed ATX's concerns regarding the unavailability of "as is" conversions for Custo-Pak, which is a Centrex service.⁵ To the contrary, Verizon's own submission indicates that it has not addressed the problem, but has simply attempted, albeit unsuccessfully, to mask the problem. Verizon's so-called eleventh-hour solution still does not provide ATX with "as is" conversions to UNE-P for Custo-Pak customers.

As noted in its comments, ATX has for years requested the ability to convert on an "as is" basis resale customers with Custo-Pak to UNE-P. ATX's ability to convert resale customers to UNE-P on an "as is" basis is critical because "as is" conversion orders should not require ATX to rekey service data for resale customers when that customer seeks to keep the same features on its UNE-P service. As demonstrated in the charts below, eliminating the rekeying process (which is associated with an "as specified" order), substantially decreases the error rate in ATX's orders. ATX's request is reasonable given that all of the line and feature information

⁴ Appendix C of the Amended Complaint in Attachment I.

⁵ ATX also notes that in this letter Verizon also asserted that it now provides "as is" PBX conversions. Due to the last-minute nature of this change, which has been a recurring theme in this proceeding, ATX has not yet had sufficient experience with Verizon's revised PBX product to determine whether Verizon's revision truly provides ATX with "as is" conversions.

that Verizon requires ATX to rekey in an “as specified” order is already contained in the retail/resale CSR for the customer. Since this information is already contained in the retail/resale CSR, converting customers from resale Custo-Pak to UNE-P should not require rekeying the information on the LSR order form.

Verizon has indicated that, despite its inability to undertake this simple records change, “in response to ATX’s request to eliminate the Centrex forms associated with the LSR, Verizon agrees to generate the provisioning forms internally upon receipt of an error free LSR.”⁶ Verizon further states “[w]ith the elimination of the forms on ‘as specified’ and new transactions ATX must populate the correct features and feature codes on the LSR so that Verizon will be able to provision the service correctly.”⁷ Verizon’s response does not provide the solution that ATX has been requesting and suggests that Verizon is simply missing the point. What ATX has been requesting from Verizon is the ability to convert its Custo-Pak customers *without the need to rekey any redundant information*. By requiring ATX to “populate the correct features and feature codes in the LSR,” Verizon’s solution merely requires ATX to exchange the old re-entering process in the faxed Centrex forms for an entirely new rekeying process in the LSR. Thus, Verizon’s purported fix is a non-solution, and calls into question Verizon’s commitment to the long-term viability of the product. The correct features and features codes that Verizon seeks is already in the retail/resale CSR and there should be no need to require ATX to rekey this information, thus exposing ATX’s orders to higher error rates.

The detrimental impact of the rekeying process is real and quantifiable. As indicated on the chart below, there is a substantial difference in the error rate for Custo-Pak orders placed under a true “as is” process and Verizon’s current ordering process that requires rekeying data. Assuming a constant human error rate of 0.1% (1 of every 1,000 keystrokes incorrect) and a customer with four lines, and no other problems with Verizon’s OSS, Verizon’s solution leads to a potential error rate of 26.9%, as compared to 1.3% absent the rekeying process.⁸

⁶ Verizon *Ex Parte* Letter at 3.

⁷ *Id.*

⁸ For comparison, the error rate would be 9% for a one line customer, 40% for a 6 line customer and 60% for a 9 line customer.

Cost of manual processes and data entry requirements to service quality

Variables in determining order errors	Verizon	ATX
Mandatory fields on an order (BTN)	10	10
Lines per BTN	4	4
Data entry points per feature ⁹	16	0
Features per line ¹⁰	4	0
Likelihood of human error on any given entry	0.10%	0.10%
% of orders w/ service affecting errors	26.9%	1.3%

As the Commission has found, requiring CLECs to rekey information imposes additional costs, delays and human errors.¹¹ Moreover, the need to rekey this information has a “significant impact on a new entrant’s ability to compete effectively in the local exchange market and to service its customers in a timely and efficient manner.”¹²

It has been ATX’s experience that as a general matter, an error rate greater than 5% per order leads to disenchanted customers and makes it difficult for ATX to assure its customers and sales personnel of the product’s integrity. Moreover, the error rate is not a function of training, quality of staff, or other considerations, but is a structural flaw inherent in the rekeying process. Hence, ATX cannot unilaterally reduce in any meaningful manner the substantial error rate associated with the rekeying process.

The inability to convert customers on an “as is” basis has a real and substantial impact on ATX’s ability to utilize the cost-efficient UNE-P product, as it is better for ATX to leave satisfied customers on the resale platform rather than attempt “as specified” UNE-P conversions that will likely introduce service errors due to the rekeying process. On that basis, less than half of ATX’s customer base is eligible for UNE-P conversion.¹³ This increases ATX’s cost of doing business in New Jersey, which in turn reduces the resources that ATX can dedicate to improving services or developing new offerings.

The inability to access true “as is” conversions also leads to billing errors. Often a resale customer has Custo-Pak, which cannot be converted on an “as is” basis, in addition to other services, which can be converted on an “as is” basis. In this instance, ATX cannot convert this

⁹ Verizon requires ATX to rekey for every feature for every line the ten digit telephone number of that line and on average, a six-character feature identification code.

¹⁰ *Id.*

¹¹ See, e.g., *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion and Order (rel. Oct. 13, 1998) ¶ 96.

¹² *Id.*

¹³ For comparison, in Pennsylvania, based on Verizon’s own numbers, the eligibility figure is 53%.

customer under a single account. Instead, ATX is forced to submit two account entries for the customer, one of which addresses Custo-Pak and another which addresses all other features. As a result, Verizon's billing system treats the customer's service as though the customer ordered an entirely new service, and imposes various installation and non-recurring charges, which are often in error. For example, on the December 1, 2001 bill, the amount of overbilled nonrecurring charges to ATX was 39.2% of ATX's entire UNE-P bill in New Jersey in that month. To make matters worse, Verizon has yet to even acknowledge the problem, attempted to correct it or certainly has not crediting this erroneous charges to ATX's accounts.

* * * *

These problems that ATX has experienced in billing and UNE-P could have been avoided had Verizon corrected its billing systems to eliminate the numerous described above and implemented "as is" conversions for Custo-Pak service when ATX began requesting these changes years ago. However, Verizon has resisted, presumably out of its own self-interest, solutions to simple requests that would improve the ability of ATX to provide local service competition in Verizon's states, such as New Jersey and Pennsylvania. ATX has noticed an appreciable difference in Verizon's willingness to provide effective service after ATX began providing local services. ATX began providing services in New Jersey in the 1980s providing primarily long-distance services utilizing Verizon's access services, and at that time, Verizon treated ATX as a valued customer, as indeed, ATX ordered millions of dollars worth of services from Verizon per month. Following the 1996 Act, and ATX's decision to enter the local services market, Verizon ceased to treat ATX as a valued customer, but instead as challenge to its local service revenues. Starting with Verizon's decision to assign ATX to a different customer service group, which was significantly less willing to work with ATX on business-to-business solutions, ATX noticed a dramatic shift in responsiveness from Verizon and an increase in unnecessary recalcitrance. ATX believes that the difficulties it has had in New Jersey and other Verizon states are directly related to Verizon's desire to limit competition as much as possible, while hoping to eke under the statutory mandates of Section 271. Once Verizon has achieved 271 approval, there will be very little incentive for Verizon to address ATX's concerns. Thus, ATX implores this Commission hold Verizon accountable for its failures in billing and UNE-P service to ATX and determine that until these types of problems are corrected, Verizon cannot receive 271 approval in New Jersey.

Respectfully Submitted,

ATX LICENSING, INC.

A handwritten signature in black ink that reads "Bruce Bennett/LVA". The signature is written in a cursive, flowing style.

Bruce Bennett
Vice President - External Affairs

cc: Michelle Carey
Brent Olson
Alexis Johns
Jeremy Miller
Susan Pie
Ben Childers
Kyle Dixon
Matthew Brill
Jordan Goldstein
Sam Feder